

ORIGINAL

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) **APPELLANT**  
Mark A. Herndon

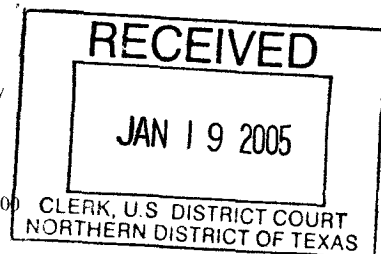
(b) County of Residence of First Listed Party  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Mark A. Herndon  
P.O. Box 2533  
Grapevine, TX 76099-2533  
817-722-8588

**APPELLEE**  
Tom Powers

County of Residence of First Listed Party  
(IN U.S. PLAINTIFF CASES ONLY)

Attorney's (If Known)  
Areya E. Holder  
Chapter 13 Trustee Office  
125 E. John Carpenter Freeway, Suite 1100  
Irving, TX 75062  
214-855-9264



## II. BASIS OF JURISDICTION

☐ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

☒ 3 Federal Question  
(U.S. Government Not a Party)

☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

Citizen of This State

☐ 1 ☐ 1

Incorporated *or* Principal Place of Business in This State

☐ 4 ☐ 4

Citizen of Another State

☐ 2 ☐ 2

Incorporated *and* Principal Place of Business in Another State

☐ 5 ☐ 5

Citizen or Subject of a Foreign Country

☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

3-05 CV 0121K

## IV. NATURE OF SUIT

☒ 422 Appeal 28 USC 158

☐ 423 Withdrawal 28 USC 157

☐ 890 Other Statutory Actions

## V. ORIGIN

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from another district

☐ 6 Multidistrict Litigation

☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 158

Brief description of cause  
Notice of appeal

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY  
Judge

Docket Number

DATED: 1/19/05

FOR THE COURT:  
Tawana C. Marshall, Clerk of Court  
by: /s/ M. McVey, Deputy Clerk

BTXN 100 (rev 10/02)

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ORIGINAL**

In Re:

Mark A. Herndon

vs.

Tom Powers

Debtor(s)

Appellant(s)

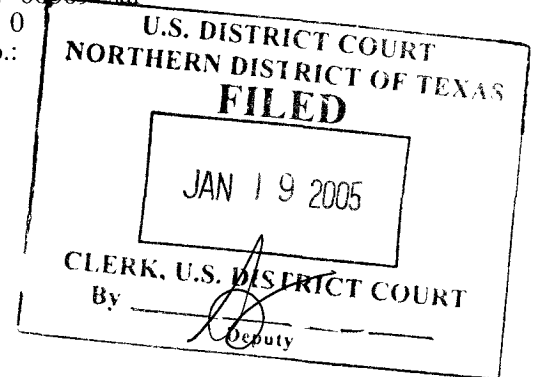
Appellee(s)

**3-05 CV 0121K**

Case No.: 04-00309-saf

Chapter No.: 0

Civil Case No.:



**TRANSMITTAL AND CERTIFICATION OF RECORD ON APPEAL**

Pursuant to Federal Rules of Bankruptcy Procedure 8007, the appeal filed on December 17, 2004 regarding [7] Order denying motion to reconsider entered on 12/10/2004 by Mark A. Herndon in the above styled bankruptcy case is hereby transmitted to the U.S. District Court for the Northern District of Texas.

This record on appeal contains all items listed on the attached index, but is not in compliance with Rule 8006 of the Federal Rules of Bankruptcy Procedure and is **deficient** for the following reason(s):

- ☐ Appeal not timely filed.
- ☐ Appeal filing fee not paid.
- ☐ Appellant(s) failed to file designation of the record.
- ☐ Appellant(s)/Appellee(s) failed to provide or prepay for the items designated.
- ☒ Transcript, Volume 4, p. 329, has not been filed with the court. Appellant designated No. 28 as the PACER Docket Report for Case No. 01-63231; Paulette Brown. The submitted document is a PACER Docket Report for Case No. 01-36231; Paulette Brown. Appellant designated No. 54 as the PACER Docket Report for Case No. 01-81006; Audrey W. Jones. The submitted document is a PACER Docket Report for Case No. 01-81066; Audrey W. Jones. Appellant designated Nos. 57-67, check stubs and a form letter, that are not part of the official Bankruptcy Court record.

All further pleadings or inquiries regarding this matter should be directed to the U.S. District Clerk's Office until such time as the appeal is fully processed in the U.S. District Court.

The above referenced record was delivered to the U.S. District Clerk's Office on January 19, 2005.

DATED: 1/19/05

FOR THE COURT:

Tawana C. Marshall, Clerk of Court

I hereby certify that the foregoing is a true copy of the original thereof now in my office this the 19th day of January 2005 at Dallas, Texas

Tawana C. Marshall, Clerk  
United States Bankruptcy Court  
Northern District of Texas

By [Signature] Deputy

by: /s/M. McVey, Deputy Clerk

BTXN 116 (rev 09/04)

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**APPEAL SERVICE LIST**

**Transmission of the Record**

BK Case No.: 04-00309-saf

Received in District Court by: Shell

Date: 1-19-05

Volume Number(s): 3 total - 1 copy of volume 1 to Judge

cc: Steven A. Felsenthal  
Chris Lalan

Attorney(s) for Appellant  
US Trustee  
Thomas Dwain Powers

**Appellant** Mark A. Herndon

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P.O. Box 2533  
Grapevine, TX 76099-2533  
817-722-8588

**Appellee** Tom Powers

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